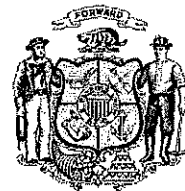




JOEL KLEEFISCH

STATE REPRESENTATIVE



Assembly Bill 363

Testimony of State Representative Joel Kleefisch

Chairman Gottlieb and Committee Members:

Thank you for scheduling Assembly Bill (AB) 363 for a public hearing today. I appreciate the opportunity to testify before you regarding legislation that seeks to assist local units of government by affording them the ability to address matters which they deem to be directly related to the functions of local government.

Wisconsin cities and villages must abide by Wisconsin statutes, Chapter 9.20 when dealing with direct legislation. Proposed ordinances or resolutions introduced under this chapter must be legislative and not administrative or executive, in order to be properly before the city's common council for its consideration or being referred to a vote of the electors. However, several Wisconsin Supreme Court decisions have held that there are four exceptions to the general requirements of Ch. 9.20, regarding a proposed ordinance or resolution. The exceptions are the following:

- A matter that is executive or administrative in nature, rather than legislative.
- A proposal that compels the repeal of an existing ordinance or compels the passage of an ordinance in clear conflict with an existing ordinance.
- A proposal that seeks to exercise legislative powers not conferred on the city or village.
- A proposal that would conflict with state law.

A recent court case in Jefferson County highlighted an issue regarding current law under Ch. 9.20. The problem arose when a resolution was brought before the City of Watertown Common Council that was ceremonial in nature, but did not clearly fall within the defined parameters of legislative, administrative or executive, not did it relate to act specific function of the city. The City of Watertown argued that a resolution brought before it was not legislative in nature and was not therefore valid under Wisconsin law.

Assembly Bill (AB) 363 would create an additional exception to the general requirement that a proposed ordinance or resolution be adopted by the governing body or submitted to the voters. Under the bill, the governing body of a city or village is not required to act on a proposed ordinance or resolution if the proposal does not substantially relate to a local governmental function or responsibility, or if the proposal is primarily ceremonial or aspirational.

I ask that you support this legislation and in doing so, giving local governments the ability to conduct business directly related to government operations without having to worry about lawsuits regarding matters that are dilatory at best and vote to recommend AB 363 for passage.

Thank you.